THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.669 of 2006

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Dated:03.03.2006

Between:

A.Shanmukha Chari, S/o.Veeraiah.

..... PETITIONER

AND

The Government of Andhra Pradesh,

Rep. By its Principal Secretary,

Panchayat Raj & Rural Development,

Secretariat, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.669 of 2006

ORDER:

The petitioner is the Sarpanch of Palair Gram Panchayat, Kusumanchi Mandal, Khammam District. The District Collector, Khammam, issued a show cause notice to the petitioner on 25.08.2004 alleging that the petitioner misappropriated a sum of Rs.6,90,361/-. The show cause notice was based on the report of the Divisional Panchayat Officer, Khammam, dated 30.06.2004, pointing out certain irregularities and misappropriation of funds by the petitioner. The petitioner submitted explanation. After considering the same, the District Collector passed orders under Section 249(1) of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act'), on 25.08.2005, removing the petitioner from the Office of the Sarpanch. Aggrieved by the same, the petitioner preferred an appeal/revision under subsection (7) of

Section 249 of the Act, *inter alia,* contending that the report of the Divisional Panchayat Officer, which is the basis for the order of removal, was not furnished, and therefore, the enquiry is vitiated. The first respondent i.e., the Government of Andhra Pradesh, however, did not advert to the same, and after perusing the records, while confirming the findings of the District Collector, dismissed the revision petition. Aggrieved by the same, the present writ petition is filed.

The learned Counsel for the petitioner, *inter alia,* contends that in the absence of any denial by respondent Nos.1 and 2 that the copy of the report of the Divisional Panchayat Officer, Khammam, was not furnished to the petitioner before initiating action under Section 249(1) of the Act, the order of removal passed by the District Collector, confirmed by the first respondent cannot be sustained. Strong reliance is placed on the Division Bench judgment of this Court, to which I was a member, in **D.Sathi Reddy v. Commissioner, Panchayat Raj A.P., Hyderabad**. This legal position is not seriously disputed by the learned Assistant Government Pleader for Panchayat Raj.

In **D.Sathi Reddy v. Commissioner, Panchayat Raj A.P., Hyderabad,** this Court laid down as under.

> From a consideration of the authorities to which a reference is made above, we have no hesitation in holding that in any of the situations as mentioned in subsection (1) of Section 249 of the Act. If the competent authority is placing reliance on any report before issuing a show-cause notice the Sarpanch shall have to be supplied with a copy of such report. Failure to do so would not be a sufficient compliance with the principles of natural justice for various reasons stated hereinabove…

In view of the above, the impugned order issued by the Government of Andhra Pradesh, confirming the order of removal passed by the District Collector, must be held to be in violation of the principles of natural justice. The impugned order is accordingly set aside. It is, however, open to the District Collector to take appropriate action against the petitioner after furnishing a copy of the report of the Divisional Panchayat Officer, dated 30.06.2004, and issue a fresh show cause notice.

The Writ Petition is accordingly allowed. No costs.

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(V.V.S.RAO, J)

03.03.2006

vs